

# RESTREINT EU/EU RESTRICTED

EUROPEAN COMMISSION

Directorate-General for Trade

Directorate F – WTO, Legal Affairs and Trade in Goods

**Tariff and Non-Tariff Negotiations, Rules of Origin**

Brussels, 20 November 2015

TRADE/CH

**Subject: EU – US revised tariff offers, October 2015.**

## **Background**

The EU and the US exchanged revised<sup>1</sup> tariff offers on 15 October, 2015, in which both parties increased the number of tariff lines offered for duty elimination to 97%. Within the 97%, a new staging category called “T” was introduced for 2% of tariff lines with staging modalities to be agreed during the course of negotiations.

In addition to the 97% and 2% “T” benchmarks, the EU also sought to address imbalances in the front-loading of duty elimination. The US gave however no assurances on front-loading. The EU therefore took precautionary measures by back-loading a number of tariff lines from entry into force to its 7-year category. The EU stated however that it was ready to reverse the backtracking on a reciprocal basis.

In the end, the US offer included, despite reluctance to agree on a front-loading benchmark, a large improvement on front-loading. Compared to its initial offer, the US offered an improvement of 13.1 percentage points at entry into force (87.5% vs 74.4% in the initial offer), close to the initial offer of 89.6%.

The EU therefore reversed most of its backtracking during the 11th negotiation round and matched the US offer of 87.5% entry into force coverage. This has had the very positive effect of creating numeric balance between the US and EU offers in the entry into force, T and OT/U categories, and will facilitate subsequent tariff negotiations.

## **1. Summary**

The two tariff offers are now globally balanced in terms of tariff line coverage, with an ambitious entry into force and overall high duty elimination coverage. The situation is thus more stable and equally ambitious from several perspectives. Total trade value coverage is however still unbalanced

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1 Initial tariff offers were exchanged on 10 February, 2014.

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and will remain so until the US commits to tariff elimination for motor vehicles. The US has signaled on a number of occasions that it will offer full duty elimination for automobile tariff lines. However it has also underlined that for them it's an endgame issue. So while balance of concession measured on trade value will be achieved in the end, balance cannot be a useful benchmark of achievement during negotiations leading up to the endgame.

When adjusting for the motor vehicles on both sides, the offers appear however much more balanced, also in value terms. Full liberalization is offered on 99.3% of US exports to the EU and 98% on EU exports to the US in absence of motor vehicles.

The outcome for other product sectors (such as EU defensiveness on energy-intensive chemicals) may counter the trade value imbalance but only to a small extent, by one or two percentage points. Other products such as textiles might however be fully balanced, with potentially all trade receiving duty free treatment at entry into force. The US is also likely to stage a number of glass and ceramic lines at extended staging, together with footwear and some mechanical products such as ball bearings and motor vehicle parts. As regards agricultural products, the main sensitive issues in the EU offer concern bovine meat, rice and sugar, while the US will maintain wine, sugar and cheese as leverage.

## 2. Global comparison

### 2.1 Comparison of tariff line coverage

Both offers are now comparable in terms of ambition on tariff line coverage, with 97% of tariff lines offered duty elimination. Both offers have 87.5% of tariff lines in the immediate duty elimination basket (EIF). The EU offer at year 3 is at 3.7% some 1.7 percentage points higher than the US offer. Consequently, the EU offer in the 7-year category is 1.7 percentage points lower than the US.

**Table 1. Comparison of tariff line coverage**

All sectors	Tariff lines		
Modality	EU	US	Difference
<b>Liberalized</b>	<b>97.0%</b>	<b>97.0%</b>	<b>0.0 pp</b>
<b>EIF</b>	87.5%	87.5%	0.0 pp
- of which MFN zero	25.0%	36.1%	-11.2 pp
- of which additional EIF	62.6%	51.3%	11.2 pp
Y3	3.7%	2.0%	1.7 pp
Y7	3.8%	5.5%	-1.7 pp
T basket	2.0%	2.0%	0.0 pp
<b>Not fully liberalized</b>	<b>3.0%</b>	<b>3.0%</b>	<b>0.0 pp</b>
OT/U	3.0%	3.0%	0.0 pp

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### 2.2. Comparison of trade value coverage

In terms of value coverage, the offers are however still unbalanced. The EU liberalizes 10 percentage points more trade in total and 14 percentage points more at entry into force. This is due to the high concentration of EU exports of passenger cars. In total, some 8.9% of total EU exports are located in 10 US tariff lines (of which 2 lines alone account for 8.5%) for which the US has not yet offered a concession. This has of course a large impact when comparing the two offers, as the US has indicated that these tariff lines are only up for discussion in the so-called endgame, which therefore will leave the current imbalance in place until the endgame.

**Table 2. Comparison of value coverage**

All sectors	Trade value (2010-2012)		
	EU	US	Difference
Modality			
<b>Liberalized</b>	<b>99.3%</b>	<b>89.2%</b>	<b>10.1 pp</b>
<b>EIF</b>	<b>91.7%</b>	<b>77.7%</b>	<b>-14.0 pp</b>
- of which MFN zero	66.6%	53.4%	13.2 pp
- of which additional EIF	25.0%	24.3%	0.8 pp
Y3	3.3%	5.7%	-2.5 pp
Y7	2.5%	3.4%	-0.9 pp
T basket	1.8%	2.3%	-0.5 pp
<b>Not fully liberalized</b>	<b>0.7%</b>	<b>10.8%</b>	<b>-10.1 pp</b>
OT/U	0.7%	10.8%	-10.1 pp

### 2.3 Comparison on value coverage when adjusted for motor vehicles

When adjusting for car, bus and truck trade on both sides (i.e. removing them from total trade and respective staging categories), the offers appear much more balanced. Full liberalization is offered on 99.3% of US exports to the EU and 98% on EU exports to the US.

EU entry into force value coverage is however considerably higher even in this scenario, by 6.8 percentage points. Consequently, the EU offer keeps less trade in the remaining staging categories compared to the US offer.

**Table 3. Comparison of value coverage excluding cars and trucks**

All sectors minus cars & trucks	Trade value (2010-2012)		
	EU	US	Difference
Modality			
<b>Liberalized</b>	<b>99.3%</b>	<b>98.0%</b>	<b>1.3 pp</b>
<b>EIF</b>	<b>92.2%</b>	<b>85.3%</b>	<b>6.8 pp</b>
- of which MFN zero	67.0%	58.7%	8.3 pp

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- of which additional EIF	25.2%	26.7%	-1.5 pp
Y3	3.3%	6.3%	-3.0 pp
Y7	2.6%	3.8%	-1.2 pp
T basket	1.2%	<b>2.6%</b>	-1.3 pp
<b>Not fully liberalized</b>	<b>0.7%</b>	<b>2.0%</b>	<b>-1.3 pp</b>
OT/U	0.7%	2.0%	-1.3 pp

### 3. Composition of Other Treatment (OT), Undefined, “T” and the 7 category

#### 3.1 OT and Undefined

The EU offer uses all OT lines (3% or 281 TLs) for agricultural goods. The bulk (128 TLs) is meat products (bovine, swine and poultry) in Chapter 02, dairy lines, fertilized chicken eggs, vegetables and fruit, rice, maize flour/grouts/flakes/oil, starch, poultry and swine meat preparations, sugar and sugar-related products, ethyl alcohol, and rum.

The US offer includes a mix of NAMA and AG products in its Undefined category. Some 285 are AG lines and 36 are NAMA products out of the total of 321<sup>2</sup> tariff lines. In NAMA, 17 lines are textile products and 19 are motor vehicles (car, bus and truck). In AG, the bulk is dairy products, including cheese (144 TLs), and the rest is comprised of bovine meat (6 TLs), citrus fruits (2 TLs), olives and olive oil (11 TLs), animal feeding and other food preparations (6TLs), wine and sparkling wine (10 TLs), refined sugar (2 TLs), raw tobacco, miscellaneous (79 TLs), chocolate (10 TLs), and food preparations (25 TLs).

#### 3.2 The “T” category

The EU offer uses roughly half of the 2% “T” lines for AG products which were previously in the OT category. These include poultry meat (23 TLs), hams and swine meat preparations (4 TLs), barley/maize/wheat and wheat flour (8 TLs), rice (9 TLs), bakery and food preparations (2 TLs), fertilized eggs (other than chicken), and miscellaneous products (51 TLs). NAMA products included in this category are energy-intensive chemicals (36 TLs), passenger cars and trucks (36 TLs), ball bearings (8 TLs), motorcycles and bicycles (2 TLs), glass and ceramics (2 TLs), non-ferrous metals (titanium) (4 TLs), and batteries (1 TL).

The US use of the “T” category includes mainly industrial (122 TLs) and fishery products (14 TLs). The use for AG products stays at 78 TLs. In the NAMA sector, 52 TLs of glass are dominant, next are footwear with 18 TLs, car parts (17 TLs), ceramics (15 TLs), ball bearings (14 TLs), titanium (3 TLs), glass fiber (1 TL), steel (1 TL), and trucks (1 TL). The 14 lines in fishery products include sturgeon roe, sardines, tuna, fish sticks and caviar.

In the AG sector, the US keeps 19 swine and lamb/sheep lines in the “T” category, 17 lines of dairy and cheese products, 13 chocolate lines, and olives (4 TLs), and the remainder is food preparations and miscellaneous products.

<sup>2</sup> The difference in the number of tariff lines, 321 vs. the EU figure of 281, is due to the larger total number of tariff lines (US 10,741 vs. EU 9,376) in the US 2013 nomenclature.

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### 3.3 The 7-year category

The US offer contains 5.5% tariff lines, while the EU offers 3.8%. The number of lines are too numerous (the EU with 353 and the US with 589) to provide a detailed readout. However, the most important lines in each offer include the following:

The EU offer uses 43 lines for engines, 24 lines for aluminum, 34 lines for consumer electronics, 34 lines for textiles, 12 bus and truck lines, and 12 wood lines. Four lines are fishery products (caviar and shrimps). Some 175 tariff lines are AG lines with miscellaneous products (live cattle, goat meat, milk and cream, nuts, fruit jam and fruit juice, animal feeding and glues).

The US offer contains 49 lines of car parts, 27 textile lines, 14 steel lines, 13 jewelry lines, 3 chemicals, 5 leather articles, 4 glass, 4 ceramics, 10 footwear, and 2 aluminum, to name the economically largest groups.

### 4. Conditionalities

Both sides maintained their respective initial conditionalities linked to the tariff offers. The EU added two new conditionalities. One is for car tariff lines, for which it only committed to discuss these when the US is ready to offer duty elimination on its car tariff lines. The second new conditionality is a link to animal welfare for egg-laying hens on a few egg tariff lines (other poultry than chicken). A more general language on EU expectations of an “economically meaningful” procurement offer by the US in February 2016 is also added. The full set of conditionalities is annexed (Annex 1) in a comparative table.

### 5. Comparison of main sectors

The EU defines its three main sectors as follows: Agricultural (basic and processed), Fishery, and Industrial. The US defines its negotiation clusters, except for agricultural goods, somewhat differently. The US industrial sector definition includes fishery but excludes textiles, which has a slightly broader scope of products the EU would consider industrial products (e.g. suitcases, bags and the like with textile outers, plastic with man-made fiber, a few footwear products, hats, glass fiber, diapers, and other products with a component of textile materials).

#### 5.1 Industrial goods (EU definition)

Tariff line comparison shows a balanced situation with full duty elimination in the sector, with the US exception of 19 car, bus and truck tariff lines and 17 textile tariff lines, which are placed in the US Undefined category. The US offers some 2.7 percentage points more at entry into force while the EU keeps 2.4 percentage points more in the 3-year category. The remaining differences are less than a percentage point in the other categories.

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**Table 4. Comparison of the industrial goods sector in tariff lines**

Industrial	Tariff lines		
Modality	EU	US	Difference
<b>Liberalized</b>	<b>100.0%</b>	<b>99.6%</b>	<b>0.4 pp</b>
<b>EIF</b>	92.6%	95.4%	-2.7 pp
- of which MFN zero	28.1%	38.0%	-9.9 pp
- of which additional EIF	64.5%	57.3%	7.2 pp
Y3	3.5%	1.1%	2.4 pp
Y7	2.6%	1.7%	0.9 pp
T basket	1.3%	<b>1.4%</b>	-0.1 pp
<b>Not fully liberalized</b>	<b>0.0%</b>	<b>0.4%</b>	<b>-0.4 pp</b>
OT/U	0.0%	0.4%	-0.4 pp

Value coverage is however unbalanced, as explained above, as car tariff lines have a large impact with close to a 10 percentage-point difference. The EU offer at entry into force is also substantially better, with close to 14 percentage points more trade liberalized. The bulk of this difference, excluding cars, is located in the 3-year category.

**Table 5. Comparison of the industrial goods sector in value**

Industrial	Trade value (2010-2012)		
Modality	EU	US	Difference
<b>Liberalized</b>	<b>100.0%</b>	<b>90.2%</b>	<b>9.8 pp</b>
<b>EIF</b>	92.8%	79.0%	13.8 pp
- of which MFN zero	68.3%	53.5%	14.8 pp
- of which additional EIF	24.6%	25.5%	-0.9 pp
Y3	3.3%	6.0%	-2.7 pp
Y7	2.0%	3.1%	-1.1 pp
T basket	1.8%	<b>2.1%</b>	-0.2 pp
<b>Not fully liberalized</b>	<b>0.0%</b>	<b>9.8%</b>	<b>-9.8 pp</b>
OT/U	0.0%	9.8%	-9.8%

### 5.2. Agricultural goods

Tariff line comparison shows that the EU offers slightly more (1.5 pp) tariff lines but substantially more at entry into force (16.5 pp). Both parties keep roughly the same share of tariff lines in the OT / Undefined categories. The US focus in its Undefined category is on dairy, food preparations, and wine, while the EU keeps mostly meats and rice in its Other Treatment category. The “T” and 3-year category is also roughly the same in both offers. However, the US offer is heavily back-

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loaded with 14.4 percentage points more tariff lines in the 7-year category. The US AG tariff lines in the 7-year category include rather limited trade due to prohibitive duties, NTBs or SPS measures. In this group there are poultry (24 TLs), dairy (25 TLs), fruits and vegetables (88 TLs), wheat and rice (4 TLs), peanuts (7 TLs), oils from various seeds (17 TLs), sugar-related products (25 TLs), chocolate (38 TLs), food preparations, tobacco, wool and cotton.

**Table 6. Comparison of the agricultural goods sector in tariff lines**

Agricultural	Tariff lines		
Modality	EU	US	Difference
<b>Liberalized</b>	<b>86.4%</b>	<b>85.0%</b>	<b>1.5 pp</b>
<b>EIF</b>	68.1%	51.7%	16.5 pp
- of which MFN zero	18.6%	20.8%	-2.2 pp
- of which additional EIF	49.6%	30.9%	18.7 pp
Y3	5.0%	6.3%	-1.3 pp
Y7	8.5%	22.9%	-14.4 pp
T basket	4.8%	<b>4.1%</b>	0.7 pp
<b>Not fully liberalized</b>	<b>13.6%</b>	<b>15.0%</b>	<b>-1.5 pp</b>
OT/U	13.6%	15.0%	-1.5 pp

A comparison of trade value is, for the above reasons (prohibitive duties, NTBs or SPS measures), not an indication of real economic interests. However, having said that, the EU offer is, on what is actually traded, despite NTBs, SPS and prohibitive duties, still substantially better, with 12 percentage points more trade liberalized. The main culprit in the US Undefined category is wine, which accounts for 58% of all trade in the Undefined category. Other products affected are olive oil (14% of the “U” category) and dairy products (12% of the “U” category).

**Table 7. Comparison of the agricultural goods sector in value**

Agricultural	Trade value (2010-2012)		
Modality	EU	US	Difference
<b>Liberalized</b>	<b>85.2%</b>	<b>73.3%</b>	<b>11.9 pp</b>
<b>EIF</b>	70.4%	57.8%	12.6 pp
- of which MFN zero	40.6%	51.1%	-10.5%
- of which additional EIF	29.8%	6.7%	23.2 pp
Y3	0.2%	1.6%	-1.3 pp
Y7	13.8%	7.7%	6.2 pp
T basket	0.7%	<b>6.3%</b>	-5.6 pp
<b>Not fully liberalized</b>	<b>14.8%</b>	<b>26.7%</b>	<b>-11.9 pp</b>
OT/U	14.8%	26.7%	-11.9 pp

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### 5.3 Fish and fishery goods

Both offers provide full duty elimination for the sector. However, the US offer keeps some 4.4% of fishery tariff lines in the “T” category and close to 4% in the 7-year category. The EU keeps no lines in the OT or “T” basket. The EU offer at EIF is also better, despite the rather large share of US MFN zero rates (75% of tariff lines are already duty-free). Further improvements need to come from the US side in order to restore some balance of concessions.

**Table 8. Comparison of the fishery goods sector in tariff lines**

Fishery	Tariff lines		
	EU	US	Difference
Modality			
<b>Liberalized</b>	<b>100.0%</b>	<b>100.0%</b>	<b>0.0 pp</b>
<b>EIF</b>	98.0%	90.3%	7.6 pp
- of which MFN zero	8.1%	75.2%	-67.1 pp
- of which additional EIF	89.9%	15.1%	74.8 pp
Y3	1.2%	1.5%	-0.3 pp
Y7	0.8%	3.9%	-3.1 pp
T basket	0.0%	<b>4.2%</b>	-4.2 pp
<b>Not fully liberalized</b>	<b>0.0%</b>	<b>0.0%</b>	<b>0.0 pp</b>
OT/U	0.0%	0.0%	0.0 pp

Trade value coverage shows a similar picture, with high shares of already duty-free trade in the US offer and a substantially better effort (despite a lower EIF rate) made by the EU at entry into force as it has more trade subject to positive MFN duties. Main back-loaded lines in the US offer include sturgeon roe, tuna, sardines, caviar, fish sticks, crabmeat, swordfish and salmon. The EU back-loaded lines include caviar and shrimps.

**Table 9. Comparison of the fishery goods sector in value**

Fishery	Trade value (2010-2012)		
	EU	US	Difference
Modality			
<b>Liberalized</b>	<b>100.0%</b>	<b>100.0%</b>	<b>0.0 pp</b>
<b>EIF</b>	74.2%	85.5%	-11.3 pp
- of which MFN zero	5.3%	81.5%	-76.2 pp
- of which additional EIF	68.9%	4.0%	64.9 pp
Y3	21.9%	2.5%	19.4 pp
Y7	3.9%	9.8%	-5.9 pp
T basket	0.0%	<b>2.1%</b>	-2.1 pp
<b>Not fully liberalized</b>	<b>0.0%</b>	<b>0.0%</b>	<b>0.0 pp</b>
0.0 pp OT/U	0.0%	0.0%	0.0 pp



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Annex 1. Head notes and conditionalities in the respective revised tariff offers.